

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                                  |   |           |
|----------------------------------|---|-----------|
| SD FERTILIZER, LLC.,,            | ) |           |
|                                  | ) |           |
| Plaintiff,                       | ) | 8:06CV746 |
|                                  | ) |           |
| vs.                              | ) |           |
|                                  | ) |           |
| FERTILIZER EQUIPMENT             | ) |           |
| SPECIALISTS, INC.,               | ) | ORDER     |
|                                  | ) |           |
| Defendant and                    | ) |           |
| Cross Claimant,                  | ) |           |
|                                  | ) |           |
| vs.                              | ) |           |
|                                  | ) |           |
| A L BAUCOM TRANSPORTATION, INC., | ) |           |
| DEL PETERSON & ASSOCIATES        | ) |           |
| EQUIPMENT SALES, INC.,           | ) |           |
| DEL PETERSON & ASSOCIATES, INC., | ) |           |
| MID-SOUTH AG-SOUTHEAST AG        | ) |           |
| EQUIPMENT, INC.,                 | ) |           |
|                                  | ) |           |
| Cross Defendants.                | ) |           |

This matter is before the court after a telephone conference with counsel for the parties on March 22, 2007. During the conference the court discussed the parties' pending motions and the parties' intention to mediate the instant dispute (Filing No. 31). Upon consideration,

**IT IS ORDERED:**

1. The Joint Motion to Strike (Filing No. 27) is granted. The Clerk of Court shall amend the docket text to reflect this order modifies Filing No. 26.
2. Mid-South Ag Equipment, Inc. and Southeast Ag Equipment, Inc.'s Motion to File Responsive Pleadings Out of Time (Filing No. 28) is granted. Mid-South Ag Equipment, Inc. and Southeast Ag Equipment, Inc. shall file an answer **on or before April 2, 2007**.

3. The parties' joint request for reference of case to mediation is granted as set forth below.

a. This case is stayed for a period of 60 days from the date of this order, to permit the parties to utilize the services of a private mediator.

b. **On or before May 22, 2007**, counsel for the plaintiff shall file a report on the status of the mediation and whether the case has been settled. Failure to so notify the court of the completion of the mediation, with or without settlement, may result in the dismissal of this case without further notice pursuant to Fed. R. Civ. P. 41(b). If no settlement has been reached, counsel for the plaintiff shall initiate a telephone conference with counsel for all parties and the undersigned magistrate judge for the purpose of setting the initial progression order for the case, within ten days of filing the status report.

DATED this 22nd day of March, 2007.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge